

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:12-CR-154
)	
JAMES AMOS PARKER,)	(VARLAN/GUYTON)
)	
Defendant.)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case came before the Court on January 24, 2013, for a scheduled pretrial conference. Assistant United States Attorney Jennifer Kohman appeared on behalf of the Government. Attorney Jonathan Moffatt represented Defendant Parker, who was also present.

During the pretrial conference, Attorney Moffatt made an oral motion to continue the trial. He stated that there was a large amount of discovery in this case and that he needed additional time to review it. In addition, Attorney Moffatt stated that he recently filed a motion to dismiss the Indictment. The Defendant indicated that he wanted to waive his speedy trial rights. The Government stated that it did not object to a continuance. The parties agreed to a new trial date of June 11, 2013.

The Court finds the Defendant's oral motion to continue the February 5 trial to be well-taken and that the ends of justice served by granting a continuance outweigh the interest of the Defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). Defendant Parker has filed

a motion to dismiss the Indictment. The Government has yet to respond to this motion. Once all pretrial motions are filed, the Court will need time to hear those motions. The parties agreed to a motion hearing on February 28, 2013. Following this hearing the Court will need time, not to exceed thirty days, to issue a report and recommendation. See 18 U.S.C. § 3161(h)(1)(H). Following the filing of the report and recommendation, the parties need time to file any objections, and the District Court will need time to rule upon the motion to dismiss in light of the report and any objections. Finally, the parties will need time to prepare for trial in light of the rulings on the issues raised in the pretrial motions. The Court finds that all of this could not take place before the February 5 trial date or in less than four months. The failure to grant a continuance would deprive the parties of time to secure a ruling on the pending motion and any additional pretrial motions and to prepare for trial in light of these rulings. Thus, without a continuance, counsel would not have the reasonable time necessary to prepare for trial despite his use of due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv).

Accordingly, the Defendant's oral motion to continue the trial is **GRANTED**, and the trial of this matter is reset to **June 11, 2013**. The Court also finds that all the time between the **January 24, 2013** hearing and the new trial date of **June 11, 2013**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. See 18 U.S.C. § 3161(d)(1)(D), -(1)(H), & -(7). With regard to additional scheduling, the Court set the following schedule: The Government has until **February 15, 2013**, to file a response to Defendant Parker's motion to dismiss. Defendant Parker has until **February 25, 2013**, to file a reply to the Government's response. The parties are to appear before the undersigned for a hearing on all pretrial motions on **February 28, 2013, at 9:30 a.m.** The Court has set a final pretrial conference for **May 23, 2013, at 11:00 a.m.** This date is also the deadline for concluding plea negotiations and for the provision of reciprocal discovery. The

Court instructs the parties that all motions *in limine* must be filed no later than **May 27, 2013**. Special requests for jury instructions shall be submitted to the District Court no later than **May 31, 2013**, and shall be supported by citations to authority pursuant to Local Rule 7.4.

Accordingly, it is **ORDERED**:

(1) The Defendant's unopposed oral motion to continue the trial is **GRANTED**;

(2) The trial of this matter is reset to commence on **June 11, 2013, at 9:00 a.m.**, before the Honorable Thomas A. Varlan, United States District Judge;

(3) All time between the hearing on **January 24, 2013**, and the new trial date of **June 11, 2013**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;

(4) The Government's response to Defendant Parker's motion to dismiss is due on **February 15, 2013**;

(5) Defendant Parker's reply to the Government's response is due on **February 25, 2013**;

(6) The parties are to appear for a motion hearing on all pending motions on **February 28, 2013 at 9:30 a.m.**;

(7) A final pretrial conference before the undersigned is set for **May 23, 2013, at 11:00 a.m.** This day is also the deadline for reciprocal discovery and concluding plea negotiations;

(8) Motions *in limine* must be filed no later than **May 27, 2013**; and

(9) Special requests for jury instructions with appropriate citations shall be submitted to the District Court by **May 31, 2013**.

IT IS SO ORDERED.

ENTER:

s/ H. Bruce Guyton
United States Magistrate Judge